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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Administration of the	)	CC Docket 92-237
North American Numbering Plan	)	
Carrier Identification Codes (CICs)	)	
	)	

COMMENTS OF WORLDCOM, INC.

March 6, 1998

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COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom") respectfully submits the following comments in response to the Commission's Further Notice of Proposed Rulemaking and Order in the above captioned proceeding.[1] WorldCom will also comment on the recommendations forwarded by the North American Numbering Council ("NANC")[2] to the Commission on February 19, 1998. WorldCom participated in the CIC Ad Hoc Working Group that helped to develop the NANC Recommendations and strongly supports its findings and conclusions.

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[1] Further Notice of Proposed Rulemaking and Order, Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), FCC 97-364, CC Docket No. 92-237 (released October 9, 1997)("Further Notice").

[2] Report and Recommendations of the CIC Ad Hoc Working Group to the North American Numbering Council (NANC) Regarding the Use and Assignment of Carrier Identification Codes (CIC), February 18, 1998, adopted unanimously by the NANC on February 18, 1998, forwarded to the Commission on February 19, 1998 by Alan C. Hasselwander, Chairman, North American Numbering Council ("NANC Recommendations").

I. INTRODUCTION AND SUMMARY

In many respects, Feature Group D Carrier Identification Codes ("CICs") are the lifeblood of switched long distance service. Local exchange carriers ("LECs") use CICs to bill and route traffic to purchasers of Feature Group D access. Interexchange carriers ("IXCs") use CICs as a means of receiving traffic from and sending traffic to end users through LECs, traffic routing and management, and, with a CICs related Carrier Access Code ("CAC"), competing for "dial around" customers -- particularly in the intraLATA marketplace where 1+ presubscription is not permitted. End users use CICs to presubscribe to primary interexchange carriers and, with a CAC, "dial around" their presubscribed interexchange carrier to use the service of another provider. Some large end users obtain their own CICs in order to purchase Feature Group D access directly from LECs, instead of as part of their long distance service. There can be no question that CICs are vitally important to the seamless flow of long distance traffic through the public switched network.

Despite their importance, however, WorldCom strongly believes that, ultimately, CICs are just a tool to be used by the industry and end users -- they are a means to an end. That end is the provision of quality service at a reasonable price to the consumers of telecommunications services. The goal of the Commission should not be the conservation of the CICs simply for the sake of conserving CICs. Rather, the overriding goal of the Commission should be to ensure that the policies it adopts with regard to CICs enable these tools to be used to provide quality service at a reasonable price to the consumers of telecommunications services.

This is particularly true in an environment, such as now, where markets are opening to new participants and where technology is driving new and better uses for telecommunications. To exploit these new opportunities, some market participants may need either new or additional CICs. In other instances, two market participants may want to combine to form a stronger competitor. In still another possible case, a small, innovative new entrant may require investment from an existing market participant to develop a new idea. All of these activities significantly benefit the consumer by introducing new entrants, forming stronger competitors, or bringing forward new services and technologies. For the most part, the marketplace -- consumers -- should determine who enters a market, how competitors organize, and what services and technologies are introduced.

WorldCom is concerned that many of the proposals contained in the Further Notice, no doubt well intended, appear to place CIC conservation ahead of such pro-competitive, pro-consumer activities at a time when these activities should be encouraged. Some of the Commission's proposals, if adopted, may actually diminish competition, limit investment, and increase costs to consumers. That CIC considerations may even be a significant factor in competitive market activities is akin to the proverbial tail wagging the dog. The marketplace should drive market activities, not numbering policies.

The consensus recommendations from NANC address many of these concerns by suggesting an approach that balances marketplace needs and realities with the need for CIC conservation. WorldCom wholeheartedly agrees with the NANC recommendations and urges the Commission to adopt them in their entirety.

II. THERE IS NO NEED FOR THE COMMISSION TO REPLACE THE CURRENT INDUSTRY GUIDELINES WITH NEW COMMISSION RULES TO GOVERN CIC USE AND ASSIGNMENT

Currently, the North American Numbering Plan ("NANP") assigns CICs using guidelines developed by the telecommunications industry. These guidelines have served the industry well. Although exhaustion of three-digit CICs forced the industry to expand CICs to four-digits, this was not caused by a failure of the industry guidelines. Rather, the exhaustion of three-digit CICs was brought about by an increasing number of competitors entering the marketplace using CICs in new and innovative ways to provide services to consumers. As the industry moves into the new environment with four-digit CICs, representing a ten-fold expansion of available CICs, there is no need to replace the industry guidelines with Commission rules as proposed in the Further Notice.[3]

WorldCom agrees with the NANC recommendation that the Commission should not adopt rules to replace the industry guidelines, with the possible exception of codifying rules regarding the activation and usage of CICs.[4] The industry requires more flexibility to adapt to changing circumstances than will be permitted under a regime imposed by the Commission. Indeed, the Telecommunications Act of 1996 was designed to provide for a "pro-competitive, de-regulatory national policy"[5] for telecommunications; adoption of

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[3] Further Notice at ¶10.

[4] NANC Recommendations at ¶7.

[5] Conference Report to Accompany S. 652, S. Rpt. 230, 104th Cong, 2d Sess. (February 1, 1996) at 1.

Commission regulations in the place of working industry guidelines would represent a step backward from this Congressional goal.

WorldCom urges the Commission to accept this NANC recommendation. The remainder of WorldCom's comments, with the exception of Section VII. regarding the adoption of rules for the retention of CIC codes, apply only if the Commission decides illadvisedly to replace the industry guidelines with Commission rules.

III. A FEATURE GROUP D ACCESS REQUEST SHOULD NOT BE A REQUIREMENT FOR CIC ASSIGNMENT; CIC ASSIGNMENT SHOULD BE AVAILABLE TO USERS OF "TRANSLATIONS ACCESS"

In paragraph 17 of the Further Notice, the Commission "tentatively conclude[s] that a Feature Group D access request should continue to be a necessary prerequisite for a CIC assignment."[6] WorldCom respectively disagrees with the Commission's tentative conclusion.

It appears that the Commission is concerned that eliminating the requirement for a Feature Group D access request in order to obtain a CIC will make it easier for entities to obtain CICs. Although the Commission does not explain why this is a problem, one is left to assume that the Commission is worried about CIC exhaustion. But requiring a Feature Group D access request is not a substantial barrier to obtaining a CIC. All an entity need do is purchase a single Feature Group D access trunk in one location to obtain a CIC that is useable on a nationwide basis. In locations where it has not purchased a Feature

[6] Further Notice at ¶17.

Group D trunk, the entity simply asks that its CIC be "translated" to the Feature Group D trunk of its underlying IXC.

Allowing the users of "translations access" to obtain CICs, without the need to purchase Feature Group D trunks, will end the administrative burdens associated with the purchase of an unnecessary trunk, and better reflect the reality of the marketplace. Replacing the Feature Group D trunk requirement with a requirement for translations access will not substantially increase the demand for CICs. Translations access is itself an expensive proposition -- it costs in excess of one million dollars to have a CIC translated on a nationwide basis. This is not something that can be undertaken frivolously. Further, although some current CIC assignees may request additional CICs if and when limits are increased or removed, a shift to translations access should not create an overwhelming demand for CICs from new entities because the Feature Group D access request requirement is not a significant barrier, only an administrative nuisance. Entities needing CICs but not wanting the burden of managing an access network have most likely already obtained them by purchasing a single Feature Group D trunk in one location and using translations access everywhere else.

WorldCom supports the NANC uptown that the purchase of Feature Group D access should be eliminated as a prerequisite for Feature Group D CIC assignments.[7]

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[7] NANC Recommendations at ¶11.

IV. THE DEFINITION OF ENTITY SHOULD NOT DEPEND SIMPLY ON OWNERSHIP, BUT ON OWNERSHIP AND CONTROL, WITH CONTROL INDICATED BY AN OWNERSHIP INTEREST GREATER THAN FIFTY PERCENT

In paragraph 24 of the Further Notice, the Commission proposes to eliminate the control element from the definition of "entity," and requests comment on the following proposed definition of that term:

> Two or more entities shall be deemed commonly owned and a single entity if -
> (1) one entity directly or indirectly has an ownership interest in the other entity; or,
> (2) such entities are directly or indirectly owned by the same person, as defined in 47 U.S.C. §153(32).[8]

WorldCom is concerned that a definition of entity that turns solely on even the smallest of ownership interests could deter or prevent some CIC assignees from investing in ventures that may lead to new technologies or services but which require an independent CIC. For example, if a small innovative company has a new idea that it wants to market -- an idea that requires a CIC -- but the company lacks the financial capability to bring its idea to market. A larger company may want to take an equity stake in the smaller company to help it bring the concept to consumers. However, since under the Commission's proposed definition, both companies would be considered a single entity, if the larger company had already obtained its maximum number of directly assigned CICs, the smaller company could not receive the additional CIC that it needed. The larger company would be forced to either shift one of its CICs from its existing use for use by the smaller company -- a very costly

[8] Further Notice at ¶24 (footnote omitted).

process described in more detail below -- or simply not make the investment. Ultimately, consumers will lose out because small innovative companies may not be able to obtain the investment that they need. WorldCom believes that numbering policies should not be a major consideration when companies make investment decisions, and that the Commission's proposed definition will inadvertently impede very marketplace that it wants to enhance.

WorldCom supports the alternative definition put forward by NANC:

> An entity is a firm or group of firms under common ownership and control. Control is defined as one firm having a 50% or greater ownership interest in another.[9]

Unlike the Commission's proposed definition, this definition would permit CIC assignees to take minority positions in other companies without running into any conflict with any CIC limits that may be established. Particularly as our telecommunications markets undergo the significant changes anticipated over the next decade, it makes no sense to tie the definition of entity to even small ownership stakes. This definition also would provide the NANP administrator with clearer guidance than is contained in the current guidelines to determine whether a CIC applicant is under common ownership and control with another.

WorldCom urges the Commission to adopt the NANC's proposed definition of entity.

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[9] NANC Recommendations at ¶21.

V. THE NUMBER OF DIRECTLY ASSIGNED CICS ALLOWED PER ENTITY SHOULD NOT BE LIMITED EXCEPT IN THE SHORT TERM TO MONITOR DEMAND

WorldCom endorses the unanimous NANC uptown that "in the long term, entities should not be constrained to the direct assignment of six codes, but that the CIC allocation be expanded to better serve the needs of access customers."[10] Because of uncertainties regarding CIC demand after the conservation period ends, WorldCom also concurs in the phased approach to increasing the allocation of CICs as proposed by the NANC, and that the two code per entity assignment limit should be increased upon the end of the permissive dialing period.[11]

VI. LIMITING THE NUMBER OF CICS OBTAINED THROUGH MERGERS AND ACQUISITIONS WILL DISCOURAGE PRO-COMPETITIVE COMBINATIONS AND IMPOSE SUBSTANTIAL AND UNNECESSARY COSTS ON CONSUMERS

In paragraph 38 of the Further Notice, the Commission proposes to incorporate in its rules Section 5.2 of the CIC Assignment Guidelines, which states that "a CIC may be transferred to another entity through merger or acquisition as long as the CIC is in use." The Commission, though, proposes the following addition: "CICs may not be acquired through transfer if an entity to whom the CIC is being transferred would, as a result of the transfer, have more than the maximum number of CIC allowed per entity."[12] The

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[10] NANC Recommendations at ¶24.

[11] NANC Recommendations at ¶24-26.

[12] Further Notice, at ¶38.

addition of this language will discourage otherwise pro-competitive combinations and will impose substantial and unnecessary costs and service disruptions on consumers.

It can be no secret that WorldCom has some experience in this area. It has grown from a small, regional reseller of long distance service into one of the largest providers of a full range of telecommunications services through an extensive series of mergers and acquisitions. In the process, it has gone from being a small niche player largely overlooked by the larger carriers to being one of the strongest competitive forces in the telecommunications marketplace. By helping to make the marketplace more competitive, WorldCom's growth through merger and acquisition has brought significant benefits to telecommunications consumers.

This growth through acquisition strategy, however, would not have been possible, or at least would have been significantly more costly, if the additional language now proposed by the Commission had been in effect earlier. If the Commission were to adopt such a rule, it will close the door on other parties growing through a similar strategy. Ultimately, competition will be restrained as a result of this rule and the consumer will be deprived of stronger competitors emerging from mergers and acquisitions.

Under the additional language proposed by the Commission, if entities that have reached their limit of directly assigned CICs merged or, if one was acquired by the other, their CICs in excess of the limit would have to be returned to the NANP Administrator. Although this sounds relatively straight forward, removing a CIC that has been in use from such use is an incredibly difficult, time-consuming, expensive task -- and ultimately, it cannot be done without significant customer disruption.

Among other things, CICs are used to presubscribe end users to long distance carriers. To take a CIC out of service would require that all the end users presubscribed to an IXC using a particular CIC be converted to another CIC through the Primary Interexchange Carrier ("PIC") change process. Although some LECs charge a reduced fee for blanket conversions, many LECs require the payment of the full $5.00 PIC change charge. The cost of making such a massive change would be enormous. Further, blanket conversions are extremely difficult to coordinate and can frequently disrupt an end user's ability to reach its chosen carrier for long periods of time once their CAC is taken out of service.

Further, many customers use dialers or PBXs programmed with an IXC's CAC to reach their chosen IXC -- particularly in areas of the country where 1+ intraLATA dialing is not yet available. To take a CIC and its associated CAC out of service would require that each of these dialers and PBXs be reprogrammed with the new CAC. IXCs generally are responsible for the reprogramming of dialers, but customers bear the burden of arranging for the reprogramming through their PBX vendor. Again, this is a very time-consuming and costly process. And, if a dialer or PBX customer is not discovered in the process, that customer loses the ability to make any long distance calls.

In addition, many companies going through a merger or acquisition own networks that are incompatible. Traffic cannot be routed between the networks, and services may be offered on one that cannot be offered on the other. Over time, when it makes economic sense, the companies may migrate all of their traffic from one network to the other. This decision should be driven by business economics, not by an artificial numbering rules that force the combined company to eliminate its excess CICs and to move to one network prematurely.

These substantial costs that the Commission's proposed additional language would foist upon the industry could discourage companies from seeking to combine if combination entails taking CICs out of service. Even if the merger or acquisition went forward, these costs would end up being borne by the consumers. In short, the Commission's proposal is a no-win situation for the consumers: either the consumer is deprived of a stronger competitor if this rule discourages two entities from combining or, if the companies go forward, the consumer will face the possibility of increased costs and service disruptions.

WorldCom does not believe that the Commission's proposed additional language would be worth the burden it would place on both the industry and on consumers. The number of merger and acquisition CICs is not a significant drain on the CIC resources in light of the increase in the number of available CICs made possible by the shift from three to four digits. Further, given the difficulty of taking an in-use CIC out of service, it is also difficult to convert an in-use CIC to a special purpose. For that reason, combined entities having an excess number of CICs are not likely to gain any significant competitive advantage.

For the above reasons, the current industry guidelines do not place a limit on the transfer of CICs through merger and acquisition. The industry recognizes the problems and costs involved in attempting to take in-use CICs out of service. Similarly, the NANC reached relatively easy consensus on the view that CICs associated with merger and acquisition should transfer to the new entity without any limit.[13]

For like reasons, the NANC rejected a suggestion that there should be an maximum number of CICs that an entity can hold, including those acquired through mergers and acquisitions.[14] Such a limit could impose significant costs on industry participants that exceed the limit, without a correspondingly significant benefit in CIC conservation. Resources that should be spent competing aggressively in the marketplace would be diverted to non-productive CIC management purposes.

WorldCom supports the NANC recommendations and urges the Commission not to adopt the additional language that it proposed in paragraph 38 of the Further Notice. Competition and consumers will benefit as a result.

VII. CIC RECLAMATION RULES REGARDING CIC ACTIVATION AND USAGE CAN BE CODIFIED IF THE COMMISSION DEEMS IT NECESSARY

Although WorldCom believes that, in general, the Commission should not adopt rules dealing with the assignment and allocation of CICs -- believing instead that

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[13] NANC Recommendation at ¶27 and ¶28.

[14] NANC Recommendation at ¶29. See also GTE Minority Opinion, NANC Recommendation, Appendix B.

industry guidelines are vastly preferable -- WorldCom does agree with the NANC's assessment that two criteria associated with CIC reclamation should be codified. First, a CIC should be activated within six months of assignment and, second, a CIC must show access and usage on the semi-annual report that the NANP administrator provides to the Commission.[15] WorldCom also strongly believes that, if these requirements for the retention of CICs are to be set forth in the Commission's rules, the Commission should also adopt a rule that "[i]f the absence of CIC usage on a LEC report triggers reclamation, the CIC assignee may provide the ATONE a copy of a valid LEC access bill showing CIC usage for the period in question."[16] A CIC assignee should not be left to hang based on a possibly erroneous CIC usage report, if it can provide independent evidence of CIC usage.

VIII. CONCLUSION

For the reasons stated above, WorldCom strongly urges the Commission to adopt the recommendations of the NANC.

March 6, 1998

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[15] NANC Recommendation at ¶36.

[16] NANC Recommendation at avion. 1.

Comments of WorldCom, Inc.
March 6, 1998

CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that on this 6th day of March, 1998, true copies of the foregoing "COMMENTS OF WORLDCOM, INC." were delivered to each of the parties listed below by first class mail unless otherwise indicated.

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